

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariana Thomas	Team: Squad #16	CCRB Case #: 202207350	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/19/2022 4:15 PM	Location of Incident: Outside the 24th Precinct Stationhouse	18 Mo. SOL 4/19/2024	Precinct: 24		
Date/Time CV Reported Mon, 10/31/2022 8:51 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 10/31/2022 8:51 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Miguel Pierre	23269	970090	024 PCT
2. PO Dominic Piscopo	23123	970093	024 PCT
3. PO Edward Lam	21414	964106	024 PCT
4. PO Nashalie Mercado	20084	968006	024 PCT
5. PO John Carty	19159	968060	024 PCT
6. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Carlos Rosal	00000	924420	024 PCT
2. PO Eric Rosado	19058	959158	024 PCT
3. SGT Stephen Collich	00657	888567	024 PCT
4. PO Michael Savarese	23356	971225	024 PCT
5. PO Giovanni Ortiz	23202	971169	024 PCT
6. SGT Erick Corniel	00922	944038	024 PCT
7. PO Sarah Frankel	09444	938112	024 PCT
8. DT3 Liridon Ahmedi	07338	956372	INT FIO PRG

Officer(s)	Allegation	Investigator Recommendation
A. PO Miguel Pierre	Abuse: Police Officer Miguel Pierre forcibly removed § 87(2)(b) to the hospital.	
B. PO Dominic Piscopo	Abuse: Police Officer Dominic Piscopo forcibly removed § 87(2)(b) to the hospital.	
C. PO Miguel Pierre	Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)	
D. PO Dominic Piscopo	Force: Police Officer Dominic Piscopo used physical force against § 87(2)(b)	
E. PO Miguel Pierre	Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)	
F. PO Miguel Pierre	Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.PO Dominic Piscopo	Force: Police Officer Dominic Piscopo used physical force against § 87(2)(b)	
H.PO Miguel Pierre	Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)	
I.PO Nashalie Mercado	Force: Police Officer Nashalie Mercado used physical force against § 87(2)(b)	
J. An officer	Force: An officer used physical force against § 87(2)(b)	
K.PO John Carty	Force: Police Officer John Carty restricted § 87(2)(b) breathing.	
L. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
M.PO Nashalie Mercado	Abuse: Police Officer Nashalie Mercado searched § 87(2)(b)	
N.PO Dominic Piscopo	Abuse: Police Officer Dominic Piscopo searched § 87(2)(b)	
O.PO John Carty	Abuse: Police Officer John Carty frisked § 87(2)(b)	
P.PO John Carty	Abuse: Police Officer John Carty searched § 87(2)(b)	
Q.PO Edward Lam	Abuse: Police Officer Edward Lam searched § 87(2)(b)	
R.PO Nashalie Mercado	Abuse: Police Officer Nashalie Mercado failed to provide § 87(2)(b) with a business card.	
S.PO Dominic Piscopo	Abuse: Police Officer Dominic Piscopo failed to provide § 87(2)(b) with a business card.	
T.PO John Carty	Abuse: Police Officer John Carty failed to provide § 87(2)(b) with a business card.	
U.PO Edward Lam	Abuse: Police Officer Edward Lam failed to provide § 87(2)(b) with a business card.	
V.PO Edward Lam	Off. Language: Police Officer Edward Lam made offensive remarks to § 87(2)(b)	
W.PO Edward Lam	Discourtesy: Police Officer Edward Lam spoke discourteously to § 87(2)(b)	
X.PO Miguel Pierre	Abuse: Police Officer Miguel Pierre searched § 87(2)(b)	
Y.PO Miguel Pierre	Abuse: Police Officer Miguel Pierre failed to provide § 87(2)(b) with a business card.	

### Case Summary

On October 31, 2022, § 87(2)(b) filed this complaint via the CCRB's Call Processing System.

On October 19, 2022, at approximately 4:15 p.m., § 87(2)(b) went to the 24<sup>th</sup> Precinct stationhouse and Police Officer Miguel Pierre and Police Officer Dominic Piscopo, of the 24<sup>th</sup> Precinct, called an ambulance to have § 87(2)(b) removed to the hospital and pulled his arms behind his back to handcuff him (**Allegations A-B: Abuse of Authority**, § 87(2)(g) **Allegations C-D: Force**, § 87(2)(g) PO Pierre allegedly kicked § 87(2)(b) in his shin (**Allegation E: Force**, § 87(2)(g) PO Piscopo and PO Pierre forcibly took § 87(2)(b) to the ground (**Allegations F-G: Force**, § 87(2)(g) PO Pierre punched § 87(2)(b) in his lower back twice (**Allegation H: Force**, § 87(2)(g) Police Officer Nashalie Mercado, Police Officer John Carty, Police Officer Eric Rosado, and Police Officer Edward Lam, all of the 24<sup>th</sup> Precinct, exited the stationhouse to assist in handcuffing § 87(2)(b) PO Mercado allegedly grabbed § 87(2)(b) right arm, twisted it behind his back, and pulled his hand toward the top of his back (**Allegation I: Force**, § 87(2)(g) An officer allegedly twisted § 87(2)(b) ankle (**Allegation J: Force**, § 87(2)(g) PO Carty allegedly pulled on § 87(2)(b) helmet, which restricted his ability to breathe (**Allegations K: Force**, § 87(2)(g) An officer told § 87(2)(b) "Dude, shut the fuck up" (**Allegation L: Discourtesy**, § 87(2)(g) PO Carty frisked § 87(2)(b) and PO Mercado, PO Piscopo, PO Carty, and PO Lam searched § 87(2)(b) and failed to provide him with a business card (**Allegations M-Q: Abuse of Authority**, § 87(2)(g) PO Lam told § 87(2)(b) he was acting erratic, which he explained meant, "acting crazy" (**Allegation V: Offensive Language**, § 87(2)(g) **Allegation W: Discourtesy**, § 87(2)(g) PO Pierre searched a bag that fell out of § 87(2)(b) pocket and failed to provide § 87(2)(b) with a business card (**Allegations X-Y: Abuse of Authority**, § 87(2)(g) No arrest or summons resulted from this incident.

This case was originally assigned to Supervising Investigator Isabel Cifarelli and reassigned to Investigator Ariana Thomas.

The investigation received 10 body-worn camera ("BWC") videos from the NYPD Legal Bureau (**Board Review 01-10**). The investigation is not in possession of any other video evidence.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Miguel Pierre forcibly removed § 87(2)(b) to the hospital.**

**Allegation (B) Abuse of Authority: Police Officer Dominic Piscopo forcibly removed § 87(2)(b) to the hospital.**

**Allegation (C) Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)**

**Allegation (D) Force: Police Officer Dominic Piscopo used physical force against § 87(2)(b)**

§ 87(2)(b) testified that he went to the 24<sup>th</sup> Precinct stationhouse to speak to officers about several issues (**Board Review 11**). § 87(2)(b) was wearing pink and purple pants, a black down jacket, and a motorcycle style helmet that was fastened with a strap on his chin. In his pockets, § 87(2)(b) had a small brown bottle of oil and a small bag, which is approximately three inches across and two inches high, with two crystals in it. When § 87(2)(b) arrived at the stationhouse, PO Pierre and possibly PO Piscopo, identified via the investigation, were standing behind a metal barricade just outside the front door to the stationhouse. § 87(2)(b) spoke to the officers for approximately four to five minutes about his various issues. § 87(2)(b) raised his middle finger at PO Pierre and asked if it was against the law for him to do that. PO Pierre said it was not. § 87(2)(b) attempted to lean his bicycle against the metal barricade in order to take his phone out to record. The barricade could not

hold the weight of his bicycle, so he instead attempted to lean it against a parked black SUV. PO Pierre told him not to put the bicycle there because it was the Chief's car. § 87(2)(b) was about to leave when it appeared to him that PO Pierre was reaching for his gun. § 87(2)(b) looked at PO Pierre and stated, "Are you about to shoot me? For what? Why are you reaching for your gun?" PO Pierre stated that he was not reaching for his gun. § 87(2)(b) saw that PO Pierre was looking at the mittens attached to the handles of his bicycle, so § 87(2)(b) moved the mittens around so PO Pierre could see there was nothing in them and said, "Look, there's no weapons in the mitten." § 87(2)(b) lifted his jacket up, patted his clothing and his pockets, and told PO Pierre that he was unarmed and had no weapons. § 87(2)(b) told PO Pierre that he was going to reach for his phone, which was in his front pocket. As § 87(2)(b) was reaching down to grab his phone, he felt PO Piscopo behind him grabbing him in a bear hug. § 87(2)(b) stood still as this was happening and did not move his body because he did not know what the officers were going to do.

In PO Pierre's BWC footage (**Board Review 01**), at 01:00, § 87(2)(b) who stands in front of the stationhouse, yells at PO Pierre to take his badge off, says their use of technology is corrupt, and that people are following him, among other statements. § 87(2)(b) tries to walk his bike past the barricade towards PO Pierre, and PO Pierre extends his hand to move the bike back. § 87(2)(b) says he wants to speak to the Chief, and PO Pierre says he is not there and tells him to move his bike. § 87(2)(b) states, "Fuck your whole fucking station, fuck your whole fucking, fuckin, fuck all y'all niggas, nigga." At 02:07, § 87(2)(b) continues to ask for the Chief, and PO Pierre states he is not there. PO Pierre puts gloves on, and § 87(2)(b) asks if he is going to attack him. PO Pierre tells him to move his bike. At 02:10, § 87(2)(b) continues to yell at PO Pierre, calling him uncivilized. § 87(2)(b) says he is dehydrated. PO Pierre asks if § 87(2)(b) wants to go to the hospital. § 87(2)(b) says he is pissed off and raises his middle finger at PO Pierre. PO Pierre asks how he can help him, and § 87(2)(b) states that he cannot. At 03:26, § 87(2)(b) continues to ask for the Chief, and PO Pierre tells him he is not there, but he can come back in the morning. At 03:42, § 87(2)(b) pushes a metal barricade over. PO Pierre tells him he cannot do that. § 87(2)(b) leans his bike against a parked car, and PO Pierre and PO Piscopo tell him he cannot have his bike there. § 87(2)(b) turns around and takes a few steps away from the bike. At 04:03, PO Pierre asks § 87(2)(b) if he needs to go to the hospital. § 87(2)(b) states, "The whole fucking planet needs to see this shit." PO Pierre wheels the bike toward § 87(2)(b) and tells him to move it. § 87(2)(b) continues to yell, stating that he cannot eat because of "fucking NYPD." PO Pierre wheels the bike away from § 87(2)(b) and leans it against a fence. § 87(2)(b) continues to yell at PO Piscopo, stating, "Nigga, suck my dick. Bring your fucking Chief out here." At 04:49, PO Pierre and PO Piscopo begin to walk away from § 87(2)(b). § 87(2)(b) subsequently pushes another metal barricade onto the ground. PO Pierre tells him to stop, and § 87(2)(b) grabs another one and throws it on the ground, stating, "Fuck yo shit." PO Pierre and PO Piscopo approach § 87(2)(b) and tell him to relax. PO Pierre picks up the metal barricades while § 87(2)(b) states that he needs to see the judge. At 05:20, § 87(2)(b) starts to walk away with his bike, then turns around. He leans his bike on another car and asks if the officers "want to see this shit." PO Pierre tells § 87(2)(b) to relax while PO Piscopo walks behind him. PO Piscopo pulls both of § 87(2)(b) arms back. PO Pierre assists, but as he does, his BWC becomes obscured and falls to the ground at 05:46. PO Piscopo's BWC footage (**Board Review 02**) is consistent with PO Pierre's and does not capture any additional force.

PO Pierre's statement was generally consistent with his BWC footage (**Board Review 12**). He testified that § 87(2)(b) is known to the 24<sup>th</sup> Precinct, as § 87(2)(b) is always recording officers, getting into their faces, and in front of their patrol cars seemingly in an attempt to make the officers hit him. PO Pierre never removed § 87(2)(b) to the hospital prior to this incident and did not know if other officers had. During this incident, § 87(2)(b) incoherent statements led PO Pierre to believe that he needed a psychiatric evaluation. Additionally, § 87(2)(b) complained that he was hungry and dehydrated, which also led PO Pierre to believe that the hospital would be the best

option for § 87(2)(b) because he could receive hydration and food there. As § 87(2)(b) flipped over the metal barricades in front of the stationhouse, there were people and children passing by, thereby causing the potential for § 87(2)(b) to injure somebody, and suggesting that § 87(2)(b) was a danger to himself and others. Based on § 87(2)(b) incoherent statements, throwing barricades, and his prior history of throwing himself in front of police cars, PO Pierre decided to call the ambulance so the officers could get him some help. PO Piscopo tried to restrain § 87(2)(b) by grabbing both of § 87(2)(b) hands, as PO Pierre requested an ambulance via radio transmission. § 87(2)(b) actively resisted by tensing his arms, so PO Pierre assisted PO Piscopo in attempting to handcuff § 87(2)(b) by pulling his arms behind his back.

PO Piscopo's statement was generally consistent with PO Pierre's (**Board Review 13**). He testified that he believed § 87(2)(b) could be a threat to others because § 87(2)(b) took an aggressive stance towards PO Pierre, was very agitated, threw barricades, and yelled about being followed. He appeared to be a threat to himself by his statements that he was not eating or drinking. PO Piscopo got behind § 87(2)(b) and pulled his arms back so that the officers could place him in custody and remove him to the hospital. § 87(2)(b) resisted by pulling his arms away.

The AIDED report (**Board Review 14**, page 2), prepared by PO Pierre, notes that § 87(2)(b) came to the 24<sup>th</sup> Precinct and was very aggressive and stated that people were following him, and he could not make any money. § 87(2)(b) was speaking incoherently and pushed metal barricades surrounding the stationhouse onto the sidewalk and was acting and speaking violently.

The Threat, Resistance, and Injury Report ("TRI") (**Board Review 20**, page 2), completed by Sergeant Stephen Collich, of the 24<sup>th</sup> Precinct, was generally consistent with officer testimony and the BWC footage. It notes that § 87(2)(b) squared off in a fighting stance and that PO Piscopo pulled § 87(2)(b) arms behind his back.

NYPD Patrol Guide, Procedure 221-13 (**Board Review 15**), defines an emotionally disturbed person ("EDP") as someone who appeared to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to themselves or others. An officer must take into protective custody and have removed to the hospital in an ambulance, any person who appears to be mentally ill or emotionally disturbed because the person is conducting themselves in a manner likely to result in serious injury to themselves or others.

Officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 31**).

The BWC footage captures § 87(2)(b) making incoherent statements, stating that he is dehydrated, and later knocking several metal barricades onto the sidewalk. Furthermore, the officers gave § 87(2)(b) multiple instructions to leave, but he continued with his aggravated demeanor. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)



§ 87(2)(b) arms behind his back to initiate his removal to the hospital. § 87(2)(g)

**Allegation (E) Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)**

**Allegation (F) Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)**

**Allegation (G) Force: Police Officer Dominic Piscopo used physical force against § 87(2)(b)**

**Allegation (H) Force: Police Officer Miguel Pierre used physical force against § 87(2)(b)**

**Allegation (I) Force: Police Officer Nashalie Mercado used physical force against § 87(2)(b)**

**Allegation (J) Force: An officer used physical force against § 87(2)(b)**

**Allegation (K) Force: Police Officer John Carty restricted § 87(2)(b) breathing.**

**Allegation (L) Discourtesy: An officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that PO Pierre came running towards him and kicked § 87(2)(b) very hard in the left shin. PO Piscopo put one handcuff on § 87(2)(b) left hand. PO Pierre subsequently placed his hand on § 87(2)(b) left shoulder and hooked his other arm underneath § 87(2)(b) right thigh. PO Pierre then used the leverage from § 87(2)(b) shoulder to slam him onto the ground. § 87(2)(b) was laying on the ground trying to catch his breath as he tucked his right hand underneath his chest and his left hand under his body while PO Piscopo was holding onto his wrist. PO Mercado, identified via the investigation, and another officer, whom § 87(2)(b) could not see, arrived. While § 87(2)(b) was pinned to the ground by PO Pierre and PO Piscopo, PO Mercado grabbed § 87(2)(b) right arm, twisted it back behind his back, moved his hand forward and back several times, and then pulled his hand toward the top of his back. § 87(2)(b) felt like his arm was about to break and said, “You’re doing too much, stop. You’re pulling my arm back too far... You’re about to break my arm, you’re fucking my arm up, bitch, stop.” A civilian across the street screamed at § 87(2)(b) to “stop resisting,” though § 87(2)(b) was not. § 87(2)(b) was screaming, “Help, help, stop.” Another officer, whom § 87(2)(b) could also not see, grabbed § 87(2)(b) ankle and twisted it. At the same time that the officers were twisting § 87(2)(b) wrists and ankles, an officer he could not see, grabbed § 87(2)(b) helmet, which was secured by a chin strap, and started pulling on it, which tightened the strap and restricted his ability to breathe. § 87(2)(b) repeatedly said, “Stop, stop, I can’t breathe. Stop. I can’t breathe.” § 87(2)(b) breathing was labored as the strap remained tight and he almost lost consciousness. As a result of this incident, § 87(2)(b) knees were bleeding, and he experienced swelling and pain in his right arm.

§ 87(2)(b) testified that he was walking by the library across the street from the 24<sup>th</sup> Precinct stationhouse when he heard a man, identified via the investigation as § 87(2)(b) shouting at another person in front of the stationhouse (**Board Review 16**). § 87(2)(b) crossed the street towards the stationhouse. § 87(2)(b) continued shouting and began pushing against PO Pierre, identified via the investigation, as PO Pierre held his hands out in front of his body to block § 87(2)(b). One of the officers who was in front of the stationhouse went inside and returned with other officers. § 87(2)(b) started surging at and pushing against all the officers as they tried to hold him and ordered him to calm down. § 87(2)(b) “rocked his weight” and did not calm down; § 87(2)(b) did not provide additional details regarding how § 87(2)(b) “rocked his weight.” Other officers had to come and hold onto § 87(2)(b) because he was pushing against officers violently as the officers remained calm and held onto his arms. § 87(2)(b) started yelling that officers were choking him when the officers were solely holding his arms and legs and not choking him. The officers held § 87(2)(b) upright approximately a foot and a half off the ground for a brief moment before they guided § 87(2)(b) to the ground. § 87(2)(b) described this motion as a controlled fall because § 87(2)(b) was punching and kicking, which seemingly caused the officers to lose their balance. A few officers went down on their knees and then § 87(2)(b) went down, such that he was on his stomach. Once § 87(2)(b) was on the ground, there was no struggle and things calmed down

more, as § 87(2)(b) stopped fighting. On the ground, § 87(2)(b) continued to complain that he could not breathe and that the officers were choking him, though no officers were doing so or making any physical contact with his neck. § 87(2)(b) found that the things that § 87(2)(b) was calling out were not accurate to what § 87(2)(b) saw. § 87(2)(b) never saw officers use any other force against § 87(2)(b) besides holding his arms and legs. § 87(2)(b) did not see any officers pull on or touch § 87(2)(b) helmet.

In PO Piscopo's BWC footage (**Board Review 02**), at 01:30, § 87(2)(b) lifts his jacket up, walks towards PO Pierre with both hands out to his sides and asks, "You shook?" PO Piscopo approaches § 87(2)(b) from behind. At 01:39, his BWC falls to the ground, but remains underneath the officers and § 87(2)(b) is standing while PO Pierre holds § 87(2)(b) hands behind his back. PO Pierre states, "Get on the floor," while § 87(2)(b) yells, "You see this shit?" They continue struggling but move out of frame. At 02:10, the sound of handcuffs clicking is audible, and an officer states, "Put your hands behind you." § 87(2)(b) continues yelling and sounds indicative of a struggle continue. A bystander tells § 87(2)(b) "It's not worth it," and "Just let them cuff you, bro." At 02:24, § 87(2)(b) says that he cannot breathe. At 02:35, § 87(2)(b) tells the officers to take his helmet off.

The physical struggle is more clearly captured on PO Rosado's BWC (**Board Review 04**), where at 00:30, PO Rosado exits the stationhouse and approaches the officers and § 87(2)(b) § 87(2)(b) who is wearing a helmet, is on the ground on his right side with his left hand behind his back. PO Pierre and PO Piscopo are on the ground behind § 87(2)(b) and a male civilian stands in front of § 87(2)(b). PO Pierre holds § 87(2)(b) left wrist behind his back. At 00:33, PO Rosado grabs § 87(2)(b) left arm, as PO Piscopo appears to attempt to get § 87(2)(b) right arm out from under § 87(2)(b) body. At 00:34, § 87(2)(b) appears to lift his head up and PO Carty appears to push the back of § 87(2)(b) helmet. The officers continue to attempt to get § 87(2)(b) right arm from under his body. At 00:44, PO Pierre punches § 87(2)(b) lower back twice. At 00:56, the officers attach a handcuff to § 87(2)(b) left wrist. At 01:03, a male voice says, "Dude, shut the fuck up." At 01:10, the sound of another handcuff fastening is heard, and the officers stand § 87(2)(b) up. The BWC footage does not capture any officer pushing § 87(2)(b) arm towards his upper back or twisting his wrists. The other officers' BWC footage does not capture any additional force due to their proximity to § 87(2)(b) body or late activation.

PO Pierre testified that as he and PO Piscopo tried to pull § 87(2)(b) arms behind his back, he refused to give the officers his hands by tensing his arms and pulling them in front of his body. The officers and § 87(2)(b) moved from the front of the stationhouse to a fence near a park as they struggled to get § 87(2)(b) in handcuffs. § 87(2)(b) pushed PO Piscopo against the fence, at which point PO Pierre, PO Carty, PO Lam, and PO Mercado also assisted in getting § 87(2)(b) to the ground. PO Pierre lifted § 87(2)(b) and then guided him to the ground. PO Pierre denied slamming § 87(2)(b) to the ground. The officers and § 87(2)(b) all fell down together. Once on the ground, § 87(2)(b) continued to move his hands to avoid being handcuffed. PO Pierre tried to bring § 87(2)(b) hands together so that the officers could handcuff him and believed that he punched him to gain compliance. PO Pierre issued § 87(2)(b) verbal commands to stop resisting, but he continued resisting by moving his hands, tensing his arms, and moving his whole body. PO Pierre never saw officers interacting with § 87(2)(b) helmet. § 87(2)(b) complained that he was having trouble breathing, but he did not appear to be having any trouble breathing, as no officers were doing anything to restrict § 87(2)(b) breathing or making contact with his neck. There were approximately four officers around § 87(2)(b) when he said he could not breathe, but all of the officers were solely making contact with § 87(2)(b) hands. PO Pierre heard someone say, "Dude, shut the fuck up," on the BWC footage, but did not recognize the voice and denied that it was his

voice. PO Pierre never kicked § 87(2)(b) or twisted § 87(2)(b) ankle in multiple directions, nor did he see any officer do so.

PO Piscopo testified that he and PO Pierre brought § 87(2)(b) to the ground as § 87(2)(b) was resisting by pulling his arms away from the officers. PO Piscopo held § 87(2)(b) hands to the rear and pulled him down. He did not see what PO Pierre did to bring § 87(2)(b) to the ground. In the process of taking § 87(2)(b) to the ground, § 87(2)(b) was pulling his arms away more forcefully and yelling and screaming. PO Piscopo was unable to maintain a grip on § 87(2)(b) arms. Once on the ground, § 87(2)(b) continued pulling his arms away from the officers in many directions as PO Piscopo and PO Pierre attempted to handcuff him. After approximately a minute, approximately five to six officers came outside to assist. PO Piscopo did not see what physical contact these officers made with § 87(2)(b). PO Piscopo continued pulling § 87(2)(b) arms behind his back as he pulled his arms away from the officers; PO Piscopo did not make any other physical contact with § 87(2)(b). With the assistance of the other officers, they were able to handcuff § 87(2)(b). PO Piscopo denied kicking § 87(2)(b) in his left shin, slamming § 87(2)(b) to the ground, twisting § 87(2)(b) ankle, or seeing any officer do so. § 87(2)(b) yelled that he was having trouble breathing, but he did not appear to have any trouble breathing, as he continued talking, yelling, and screaming. PO Piscopo never interacted with § 87(2)(b) helmet, nor did he see other officers do so. PO Piscopo denied telling § 87(2)(b) “Dude, shut the fuck up.” He did not recognize the voice making the statement and said it was definitely not his voice.

PO Carty testified that he ran out of the stationhouse, where he saw PO Piscopo and PO Pierre struggling to grab and pull § 87(2)(b) wrists behind his back (**Board Review 17**). § 87(2)(b) was already on the ground, on his side, actively resisting by flailing “all over the place,” moving his arms, and using his legs to try to push up. It appeared that § 87(2)(b) was trying to get up and run away. § 87(2)(b) was very strong and was wearing a hard motorcycle helmet. When PO Carty ran over, § 87(2)(b) was swinging his helmet, which was still on his head, up. § 87(2)(b) was swinging the helmet anywhere he could, seemingly in an attempt to get up and away from the officers. PO Carty was not familiar with motorcycle helmets, and this was the first time he had to handcuff someone wearing a motorcycle helmet. At first, PO Carty saw § 87(2)(b) helmet coming at him as § 87(2)(b) swung his head up and got nervous that it was going to hit him in the knee, elbow, shin, or face and hurt him because § 87(2)(b) was going “100 miles per hour.” PO Carty believed § 87(2)(b) was trying to hit the officers with his helmet. PO Carty focused his attention on the helmet to protect himself from it, so he pushed it down for a “split second.” The helmet would have hit PO Carty if he did not prevent it from doing so. PO Carty solely pushed the helmet down and away from him to eliminate the threat and prevent himself or other officers from getting injured by it as the helmet was hard enough to break bones. PO Carty was kneeled next to § 87(2)(b) left shoulder. A couple of other officers had § 87(2)(b) arms. § 87(2)(b) was on the ground on his stomach. PO Carty did not grab the helmet or pull up on it. As PO Carty pushed the helmet down, § 87(2)(b) swung his head up and down and side to side. PO Carty could not see if a chin strap was attached and could not tell if the helmet was secured on § 87(2)(b) head, as the helmet was “all over the place” and was sliding up and down because § 87(2)(b) was moving his head around so fast. As PO Carty was pushing § 87(2)(b) helmet down, there was no indication that his action was restricting § 87(2)(b) breathing as § 87(2)(b) did not appear to have any trouble breathing because he kept fighting the officers and screaming the whole time. It was difficult for the officers to overcome § 87(2)(b) resistance because he was using his leg strength, and the officers could only use their arm strength. Once PO Carty pushed § 87(2)(b) helmet down, the officers handcuffed § 87(2)(b) within five seconds. PO Carty did not hear § 87(2)(b) complaining that he was having trouble breathing when he was pushing down on his helmet. PO Carty heard § 87(2)(b) saying he could not breathe in the BWC footage shown before his CCRB interview but believed that was before he got there because the video captured people running by and PO Carty arrived after other officers were



already assisting PO Pierre and PO Piscopo. PO Carty denied kicking § 87(2)(b) shin, twisting his hand or ankle, or seeing any officer do so. PO Carty heard someone say, “Dude, shut the fuck up,” on the BWC footage played prior to the interview, but he did not recognize the voice and denied that it was his voice.

PO Mercado testified that she did not have an independent recollection of restraining § 87(2)(b) and her testimony was based on what she saw from the BWC footage (**Board Review 18**). Besides handcuffing § 87(2)(b) PO Mercado did not make any other physical contact with him. PO Mercado denied grabbing § 87(2)(b) arm, twisting it behind his back, then moving his hand in multiple directions while holding his wrist nor pulling § 87(2)(b) hand towards the top of his back nor did she see any officer do so. She never twisted his ankle nor saw any officer do so. PO Mercado acknowledged that she heard § 87(2)(b) complaining of having trouble breathing on the BWC reviewed before the interview, but she did not have an independent recollection of this. § 87(2)(b) did not appear to be having trouble breathing, as he was speaking and breathing. PO Mercado did not recognize the voice who said, “Dude, shut the fuck up.”

PO Lam testified that while § 87(2)(b) was face down on the ground, PO Pierre and PO Piscopo were trying to pull § 87(2)(b) arms behind his back to handcuff him as § 87(2)(b) tensed his hands in front of his chest (**Board Review 19**). PO Lam solely saw PO Pierre and PO Piscopo making physical contact with § 87(2)(b) arms. PO Lam, who was on the left side of § 87(2)(b) body, slipped his hand underneath § 87(2)(b) armpit to pull his left arm out from under his torso, so that the officers could handcuff him. Besides pulling his arm behind his back, PO Lam did not make any other physical contact with § 87(2)(b). § 87(2)(b) was wearing a motorcycle helmet, though PO Lam did not remember if he saw any officers make any physical contact with it. § 87(2)(b) continued resisting as PO Lam was making physical contact with him by keeping his arms tight in front of his chest and pulling his arms away from the officers once they got his arms out from under him, which made it harder for the officers to lift his arms up. PO Lam did not recall § 87(2)(b) complaining of having trouble breathing and he did not appear to be having trouble breathing. PO Lam never saw any officers make any physical contact with § 87(2)(b) neck nor see any officer lift § 87(2)(b) helmet, such that the strap was choking him. PO Lam denied ever kicking § 87(2)(b) or twisting his wrist or ankle. PO Lam never told § 87(2)(b) “Dude, shut the fuck up,” and did not recognize the voice on BWC.

The TRI Report (**Board Review 20**, page 2), completed by Sgt. Collich, notes that PO Pierre and PO Piscopo forcibly took § 87(2)(b) to the ground, where he was eventually handcuffed. § 87(2)(b) resisted by flailing and PO Pierre used hand strikes to gain compliance.

Officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 31**).

§ 87(2)(g)

Though the BWC footage does not capture the officers taking § 87(2)(b) to the ground, both PO Pierre and PO Piscopo acknowledged doing so. Both PO Pierre and PO Piscopo testified that § 87(2)(b) physically resisted their initial attempt to restrain him, which is consistent with § 87(2)(b).

§ 87(2)(b) witness testimony and the bystander captured on BWC telling § 87(2)(b) that it was “not worth it,” and to let the officers handcuff him. § 87(2)(g)

The officers consistently testified that § 87(2)(b) physically resisted their attempts to handcuff him by tucking his arm under his body, moving his hands away from the officers, swinging his helmet, and tensing his arms while on the ground, which the BWC supports. § 87(2)(g)

The BWC footage confirms that PO Mercado did not grab § 87(2)(b) right arm, twist it back behind his back, move his hand forward and back several times, and then pull his hand toward the top of his back, as alleged. § 87(2)(g)

NYPD Patrol Guide, Procedure 221-02, states that officers must, “avoid actions which may result in chest compression, such as sitting, kneeling, or standing on a subject’s chest or back, thereby reducing the subject’s ability to breath” (**Board Review 21**).

The BWC video captures § 87(2)(b) helmet moving up and down, as PO Carty makes contact with it. While PO Carty acknowledged pushing § 87(2)(b) helmet down, he denied making any other physical contact with the helmet, including pulling the helmet up. However, it is unclear from the BWC footage whether § 87(2)(b) helmet moving up and down was due to § 87(2)(b) actions or PO Carty’s. § 87(2)(g)

§ 87(2)(g)

**Allegation (M) Abuse of Authority: Police Officer Nashalie Mercado searched § 87(2)(b)**

**Allegation (N) Abuse of Authority: Police Officer Dominic Piscopo searched § 87(2)(b)**

**Allegation (O) Abuse of Authority: Police Officer John Carty frisked § 87(2)(b)**

**Allegation (P) Abuse of Authority: Police Officer John Carty searched § 87(2)(b)**

**Allegation (Q) Abuse of Authority: Police Officer Edward Lam searched § 87(2)(b)**

**Allegation (R) Abuse of Authority: Police Officer Nashalie Mercado failed to provide § 87(2)(b) with a business card.**

**Allegation (S) Abuse of Authority: Police Officer Dominic Piscopo failed to provide § 87(2)(b) with a business card.**

**Allegation (T) Abuse of Authority: Police Officer John Carty failed to provide § 87(2)(b) with a business card.**

**Allegation (U) Abuse of Authority: Police Officer Edward Lam failed to provide § 87(2)(b) with a business card.**

Though § 87(2)(b) did not allege this, BWC footage captures officers frisking and searching § 87(2)(b). In PO Lam’s BWC footage (**Board Review 05**), at 00:42, PO Carty frisks § 87(2)(b).

jacket. At 00:48, PO Lam unzips § 87(2)(b) right jacket pocket and PO Mercado searches the pocket and removes items from it. PO Carty searches § 87(2)(b) right jacket pocket and removes a ring of keys. At 01:03, PO Piscopo searches § 87(2)(b) left jacket pocket. At 01:30, PO Carty frisks § 87(2)(b) pants. At 02:00, PO Mercado opens what appears to be a back brace. At 02:26, PO Mercado, PO Carty, and PO Piscopo search § 87(2)(b) pants' pockets. At 02:54, PO Carty frisks § 87(2)(b) right jacket pocket and enters the pocket.

PO Piscopo, PO Mercado, PO Carty, and PO Lam consistently testified that they did not have any indication that § 87(2)(b) had any weapons on him prior to searching him and that they solely searched him because it is Department procedure to search civilians before they are placed in an ambulance. PO Carty testified that he frisked § 87(2)(b) first, as it is Department procedure to do so. PO Mercado, PO Carty, and PO Piscopo testified that they did not offer § 87(2)(b) a business card because he never asked for one, while PO Lam testified that he did not offer him a business card because officers are not required to during "medical jobs."

NYPD Patrol Guide, Procedure 221-13 states that when an EDP has been restrained, officers are to "remove property that is dangerous to life or will facilitate escape" (**Board Review 15**).

Officers can frisk an individual if they have a reasonable suspicion that the individual has a weapon. Officers may only enter the interior portions of a person's clothing or personal property if they felt an object that they reasonably suspect is a weapon or dangerous instrument for the purpose of removing the object. People v. De Bour, 40 N.Y.2d 210 (**Board Review 22**).

Officers are required to offer a business card upon the conclusion of law enforcement activities, including searches of persons or property, except in cases when a summons is issued, or an arrest is made. NYPD Administrative Guide, Procedure 304-11 (**Board Review 23**).

The officers consistently testified that they did not have any indication that § 87(2)(b) had any weapons on his person prior to frisking and searching him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

As officers are required to provide their business cards at the conclusion of a search of a person, and PO Mercado, PO Piscopo, PO Carty, and PO Lam failed to do so, § 87(2)(g)

§ 87(2)(g)

**Allegation (V) Offensive Language: Police Officer Edward Lam made offensive remarks to**

§ 87(2)(b)

**Allegation (W) Discourtesy: Police Officer Edward Lam spoke discourteously to § 87(2)(b)**

§ 87(2)(b)

Though § 87(2)(b) did not allege this, BWC video captures PO Lam informing § 87(2)(b) that he was acting "crazy." In PO Carty's BWC footage (**Board Review 07**), at 05:24, § 87(2)(b) asks, "What the fuck did I do?" PO Lam tells § 87(2)(b) he is going to the hospital. § 87(2)(b) asks for what. PO Lam tells him because he is acting erratic. § 87(2)(b) asks, "What the fuck is that, acting erratic?" At 05:40, PO Lam says, "acting crazy." § 87(2)(b) asks, "What the fuck is crazy?" PO Lam tells § 87(2)(b) to relax.

PO Lam testified that § 87(2)(b) began asking why he was placed in handcuffs. PO Lam explained that he was acting erratic and § 87(2)(b) asked, "How am I acting erratic?" at which point PO Lam described what acting erratic meant by saying it meant, "acting crazy," because it seemed that § 87(2)(b)

§ 87(2)(b) did not know what erratic meant. PO Lam was not calling § 87(2)(b) crazy, did not intend to insult § 87(2)(b) did not intend his comment as a discourteous remark, and just provided this as a description because § 87(2)(b) asked for the meaning of erratic.

Officers are prohibited from using discourteous or disrespectful remarks regarding another person's age, ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability. NYPD Administrative Guide, Procedure 304-06 (**Board Review 24**).

Officers must maintain a higher standard of integrity than is generally expected of others and must render their services with courtesy and civility. NYPD Patrol Guide, Procedure 200-02 (**Board Review 25**).

While PO Lam testified that when he told § 87(2)(b) that he was "acting crazy," he was not calling him crazy and did not mean to insult § 87(2)(b) per the Administrative Guide and Patrol Guide, officers are held to a higher standard of integrity than civilians, and as the term, "crazy," directly relates to someone's perceived mental state, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (X) Abuse of Authority: Police Officer Miguel Pierre searched § 87(2)(b)**  
**Allegation (Y) Abuse of Authority: Police Officer Miguel Pierre failed to provide § 87(2)(b)**  
**with a business card.**

§ 87(2)(b) testified that PO Pierre started to look around at the things that had come out of § 87(2)(b) pockets. Both the bottle of oil and the bag of crystals had fallen out, in addition to his keys. PO Pierre picked up § 87(2)(b) bag of crystals and opened it. PO Pierre looked inside, saw the contents, and put his head down and walked away. The other officers began asking what was in the bag, and PO Pierre stated, "It's just rocks." § 87(2)(b) was taken to § 87(2)(b) via an ambulance.

In BWC for PO Pierre (**Board Review 01**), at 25:48, PO Pierre walks behind § 87(2)(b) picks up a small, green plastic bag, and opens it and states that there are marbles in it. § 87(2)(b) states that PO Pierre probably thought it was an eighth, but it is his merchandise. PO Pierre places it in § 87(2)(b) pocket.

PO Pierre testified that there was a colorful envelope on the ground, which was slightly heavy and as PO Pierre picked it up, § 87(2)(b) asked, "Is that my rock?" so PO Pierre checked to see and saw that it was a rock. The bag was already open, so PO Pierre could see inside, and § 87(2)(b) asked him if it was his rock, so he checked to see if it was. PO Pierre put the rock back in § 87(2)(b) pocket. PO Pierre did not offer § 87(2)(b) a business card because he did not ask for one and in EDP situations, the officers do not typically offer a business card unless they calm down and ask. When presented with his BWC footage, PO Pierre stated that he felt a rock inside the bag, which was open. He opened it further to see what was inside. Prior to opening it further, he felt something hard. He opened the bag further because § 87(2)(b) asked if it was his rock, so he wanted to make sure that it was § 87(2)(b) rock. PO Pierre did not open the bag further for any other reason. PO Pierre did not ask for permission to open the bag further because § 87(2)(b) asked if it was his rock, which is what prompted PO Pierre to enter the bag.

An officer may search an individual's personal effects if the officer has probable cause that they contain contraband or evidence of a crime. People v. Graham, 211 A.D.2d 55 (**Board Review 26**).



Officers are required to offer a business card upon the conclusion of law enforcement activities, including searches of persons or property, except in cases when a summons is issued, or an arrest is made. NYPD Administrative Guide, Procedure 304-11 (**Board Review 23**).

Though PO Pierre testified that § 87(2)(b) statements prompted him to open the bag, the BWC footage disputes this, as it captures PO Pierre picking up the bag and opening it without § 87(2)(b) saying anything about it prior. § 87(2)(g)

As officers are required to provide their business cards at the conclusion of a search of a person and PO Pierre failed to do so, § 87(2)(g)

### Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Pierre has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Piscopo has been a member of service for two years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Lam has been a member of service for six years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- PO Mercado has been a member of service for four years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Carty has been a member of service for four years and has been a subject in four CCRB complaints and four allegations, of which one was substantiated.
  - Case #202101542 involved a substantiated allegation of a discourtesy. The Board recommended Command Discipline A, which the NYPD imposed. § 87(2)(g)

### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming he sustained permanent injuries and mental anguish and seeking five-million dollars as redress (**Board Review 28**). § 87(2)(g)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### RPBP History

- The RPBP Unit reviewed this complaint and ultimately decided it did not contain actionable allegations of Racial Profiling or Bias-Based Policing.



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Squad: 16

Investigator:	<u>Ariana Thomas</u>	<u>Inv. Ariana Thomas</u>	<u>12/28/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Patrick Yu</u>	<u>IM Patrick Yu</u>	<u>12/29/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date